



ENVIRONMENTAL PROTECTION AGENCY

[FRL-9807-2]

Draft National Pollutant Discharge Elimination System (NPDES) General Permit for Municipal Separate Storm Sewer Systems in the Middle Rio Grande Watershed in New Mexico (NMR04A000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed permit issuance and notice of public meetings, and public hearing.

SUMMARY: EPA Region 6 Water Quality Protection Division, today is proposing for public comment the issuance of a National Pollutant Discharge Elimination System (NPDES) general permit for storm water discharges from municipal separate storm sewer systems (MS4s) located in the Middle Rio Grande Watershed in the State of New Mexico. This proposed permit offers discharge authorization to regulated MS4s within the boundaries of the Bureau of the Census-designated 2000 and 2010 Albuquerque Urbanized Areas and any other MS4s in the watershed designated by the Director as needing a MS4 permit. This permit is intended to replace both the individual NPDES Permit NMS000101 issued on January 31, 2012, and the expired general permits NMR040000 and NMR04000I for dischargers in this watershed area. The Director is also providing notice of public meetings and a public hearing to be held regarding today's proposed general permit.

DATES: Comments must be submitted in writing to EPA on or before (INSERT DATE 60 DAYS AFTER PUBLICATION)

PROPOSED DOCUMENTS: The proposed general permit and fact sheet which sets forth principal facts and the significant factual, legal, and policy questions considered in the development of the proposed general permit, may be obtained via the Internet at <http://epa.gov/region6/water/npdes/sw/ms4/index.htm>.

To obtain hard copies of these documents or any other information in the administrative record, please contact Ms. Diane Smith using the contact information provided below.

How do I comment on this proposal?

COMMENT SUBMITTALS: Submit your comments, by one of the following methods:

- Email: smith.diane@epa.gov
- Mail: Ms. Diane Smith, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.

ADMINISTRATIVE RECORD: The proposed general permit and other related documents in the administrative record are on file and may be inspected any time between 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays, at the addresses listed for submission of comments. It is recommended that you write or call to the contact above for an appointment, so the record(s) will be available at your convenience.

PUBLIC MEETINGS AND PUBLIC HEARING: EPA will be holding two informal public meetings and one public hearing in the Albuquerque metropolitan area. The public meetings will include a presentation on the proposed general permit and a question and answer session. Written, but not oral, comments for the official permit record will be accepted at the public meetings. Written and oral comments for the official permit record will be accepted at the public hearing. Public notice of these meetings and the public hearing was provided in the Albuquerque Journal on Saturday, April 13, 2013.

Meeting and Hearing: EXPO New Mexico, African American Performing Art Center (AAPAC)
Auditorium, 300 San Pedro Dr NE, Albuquerque, NM 87108
Time: Public Meeting from 6:00 pm; Public Hearing from 7:30 pm
Date: May 14, 2013

Meeting Only: USDA Building, First Floor Conference Room, 6200 Jefferson St NE,
Albuquerque, NM 87109
Time: Public Meeting at 1:00 pm;
Date: May 15, 2013

FOR FURTHER INFORMATION CONTACT: Ms. Diane Smith, U.S. Environmental
Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Telephone: (214)
655-2145. E-mail address: smith.diane@epa.gov.

SUPPLEMENTARY INFORMATION:

A. General Information - This permit authorizes stormwater discharges to waters of the United States from MS4s within the Middle Rio Grande Watershed provided the MS4 is located fully or

partially within the corporate boundary of the City of Albuquerque; is located fully or partially within an urbanized area as determined by the 2000 and 2010 Decennial Census; is designated as a regulated MS4 pursuant to 40 CFR 122.32; or this permit may also authorize an operator of a MS4 covered by this permit for discharges from areas of a regulated small MS4 located outside an Urbanized Areas or areas designated by the Director provided the permittee complies with all permit conditions in all areas covered under the permit. Maps of 2010 Census urbanized areas are available online at: <http://cfpub.epa.gov/npdes/stormwater/urbanmaps.cfm>.

B. Statutory and Regulatory History - The overall intent of the permit conditions is to support the statutory goals of Section 101 of the Clean Water Act (CWA) to restore and maintain the chemical, physical and biological integrity for the Nation's waters. The 1987 Water Quality Act (WQA) amended the CWA by adding section 402(p) which requires that NPDES permits be issued for various categories of storm water discharges. Section 402(p)(2) requires permits for five categories of storm water discharges, commonly referred to as Phase I of the NPDES Storm Water Program. Included in Phase I are discharges from large municipal separate storm sewer systems (MS4s) (systems serving a population of 250,000 or more). Phase I regulations published November 16, 1990 (55 FR 47990) addressed discharges from large MS4s including city of Albuquerque MS4, which includes all MS4s located within the corporate boundary of the city of Albuquerque.

Section 402(p)(6) of the CWA requires permitting for certain additional storm water discharges (Phase II of the storm water program) to protect water quality. EPA promulgated final Phase II storm water regulations on December 8, 1999 (64 FR. 68722). These regulations set forth the additional categories of discharges to be permitted and the requirements of the program. The additional discharges to be permitted included small MS4s located in Urbanized Areas designated by the Bureau of the Census and those designated by the Director on a case-by-case basis to protect water quality. This proposed permit would combine coverage for both Phase I and Phase II regulated MS4s in the Albuquerque area into a single general permit.

The discharge control conditions established by this permit are based on Section 402(p)(3)(B) of the Act which mandates that a permit for discharges from both Phase I and II MS4s must effectively prohibit the discharge of non-stormwater to the MS4 and require controls to reduce pollutants in discharges from the MS4 to the maximum extent practicable (MEP) including management practices, control techniques and system design and engineering methods, and such other provisions as the Administrator deems appropriate for the control of pollutants. MS4 permits requiring implementation of Best Management Practices (BMPs) addressing the Six Minimum Control Measures at 40 CFR 122.34(b) are generally deemed to be an appropriate means of meeting the MEP standard. Protection of water quality and compliance with Total Maximum Daily Loads (TMDLs) are addressed through the CWA 402(p)(3)(B)(iii) authority for “other such provisions as the Administrator deems appropriate for the control of pollutants.”

PAPERWORK REDUCTION ACT: The information collection required by this permit will reduce paperwork significantly by implementation of electronic reporting requirements. EPA is working on an electronic notice of intent (eNOI) system so applicants will file their NOIs online. EPA estimates that it takes 10 to 15 minutes to fill up all information required by eNOI for each lease block. And it takes much less time to add, delete, or modify eNOI. EPA will also incorporate an electronic discharge monitoring report (NetDMR) requirement in the permit. The time for NetDMR preparation will be much less than that for paper DMR. The electronic filing systems will also significantly reduce the mailing cost.

REGULATORY FLEXIBILITY ACT: The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., requires that EPA prepare a regulatory flexibility analysis for regulations that have a significant impact on a substantial number of small entities. As indicated below, the permit reissuance proposed today is not a “rule” subject to the Regulatory Flexibility Act.

Dated: April 18, 2013.

Stacey Dwyer,
Acting Director, Water Quality Protection Division,
EPA Region 6.

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